

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2013-000273-001 DT

06/11/2013

THE HON. CRANE MCCLENNEN

CLERK OF THE COURT
J. Eaton
Deputy

STATE OF ARIZONA

ANDREA A GUTIERREZ

v.

CARL LEIF BENSON (001)

CARL LEIF BENSON
9826 E EMELITA AVE
MESA AZ 85208

PHX MUNICIPAL CT
REMAND DESK-LCA-CCC

APPEAL DISMISSED / REMANDED

Lower Court Case Number 2012-9009998.

Defendant-Appellant Carl Leif Benson (Defendant) was convicted in Phoenix Municipal Court of two counts of endangerment. The State has filed a Motion To Dismiss Appeal contending Defendant has raised only issues involving ineffective assistance of counsel. For the following reasons, this Court grants the State's Motion To Dismiss Appeal.

I. DISCUSSION.

Defendant-Appellant Carl Leif Benson (Defendant) was convicted in Phoenix Municipal Court of two counts of endangerment. On March 25, 2013, Defendant filed his Written Appeal Memorandum contending his trial counsel provided ineffective assistance of counsel. April 24, 2013, the State filed a Motion To Dismiss Appeal contending Defendant is precluded from raising on direct appeal issues of ineffective assistance of counsel.

The Arizona Supreme Court has held as follows:

We endeavor today to clarify this issue for trial courts and practitioners. Accordingly, we reiterate that ineffective assistance of counsel claims are to be brought in Rule 32 proceedings. Any such claims improvidently raised in a direct appeal, henceforth, will not be addressed by appellate courts regardless of merit. There will be no preclusive effect under Rule 32 by the mere raising of such issues. The appellate court simply will not address them. This ensures criminal defendants a timely and orderly opportunity to litigate ineffectiveness claims and, we believe, promotes judicial economy by disallowing piecemeal litigation.

State v. Spreitz, 202 Ariz. 1, 39 P.3d 525, ¶ 9 (2002).

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The Arizona Supreme Court has thus held an appellate court, such as this Court, is precluded from addressing on direct appeal any claims of ineffective assistance of counsel. This Court must therefore dismiss this appeal. If Defendant wants to obtain relief on his claims of ineffective assistance of counsel, he will have to file a petition for post-conviction relief under Rule 32 of the Arizona Rules of Criminal Procedure.

III. CONCLUSION.

Based on the foregoing, this Court concludes this Court is precluded from addressing Defendant's claims of ineffective assistance of counsel.

IT IS THEREFORE ORDERED granting the State's Motion To Dismiss Appeal.

IT IS FURTHER ORDERED dismissing the appeal in Cause Number LC 2013-000273.

IT IS FURTHER ORDERED remanding this matter to the Phoenix Municipal Court for all further appropriate proceedings.

IT IS FURTHER ORDERED signing this minute entry as a formal Order of the Court.

/s/ Crane McClennen
THE HON. CRANE MCCLENNEN
JUDGE OF THE SUPERIOR COURT

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